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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,576	02/01/2002	Jeroen De Regt	88000.1012	2495
7590 06/14/2005				
Speckman Law Group Suite 100 1501 Western Avenue Seattle, WA 98101			EXAMINER	
			PRONE, JASON D	
			ART UNIT	PAPER NUMBER
			3724	

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/937,576

Applicant(s)

REGT ET AL.

Examiner

Jason Prone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: in Figure 1, item "15". Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to because Figures 1 and 2 do not use hidden lines. It is unclear which structures are in front and which structures are behind. Figures 5a-d and 6a-d should not use lines or arrows to join two separate drawings. If by chance, the drawings were printed on separate pages, it would be unclear which drawing would get the arrows and it would be unclear what the arrows meant. The examiner recommends that Figures 5a-d be labeled as one Figure 5 and 6a-d be labeled as one Figure 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to

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the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or

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REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a).

"Microfiche Appendices" were accepted by the Office until March 1, 2001.)

(f) BACKGROUND OF THE INVENTION.

(1) Field of the Invention.

(2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.

(g) BRIEF SUMMARY OF THE INVENTION.

(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).

(i) DETAILED DESCRIPTION OF THE INVENTION.

(j) CLAIM OR CLAIMS (commencing on a separate sheet).

(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).

(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

4. The disclosure is objected to because of the following informalities: On page 2 line 27, the phrase "the two L-shaped parts 9" should be replaced with "the two L-shaped parts 9, 9". On page 4 line 5, the phrase "tape 20" should be replaced with "tape 45".

Appropriate correction is required.

***Claim Objections***

5. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). The first independent claim is labeled as claim 12 and should be claim 1

Misnumbered claim 12 been renumbered 1.

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6. Claims 1, 2, 4, 5, 6, 8 and 11 are objected to because of the following informalities: In claim 1 at least one transporting roll is labeled as 22; 23, however a problem arises when claims 4 and 5 label the second transporting roll as 22. It is unclear how 22 can be both transporting rolls. In claim 6 the phrase "is rotatably supported resting against" is not correct. Either "supporting" or "resting" should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. On page 2 lines 28 and 30, the phrases "a short sliding guide plate 13" and "a longer sliding guide plate 20" are unclear. A plate is defined as:

**plate** (plāt) *noun*

1. A smooth, flat, relatively thin, rigid body of uniform thickness.<sup>1</sup>

Sliding guide plate 13 and 20 are clearly not plates but a groove. It is unclear what structure allows the 13 and 20 to be considered plates.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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<sup>1</sup> *The American Heritage® Dictionary of the English Language, Third Edition* copyright © 1992 by Houghton Mifflin Company. Electronic version licensed from INSO Corporation; further reproduction

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Regarding claim 1, the phrase "or the like" renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by "or the like"), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

12. In regards to claim 1, the phrase "the two toothed racks are provided on both sides of the lever" is unclear. As written, each individual rack is located on both sides of the lever. The specification only provides support for one rack on one side and the other rack on the opposite side.

13. In regards to claim 1, the phrases "a lower sliding guide plate" and "an upper sliding guide plate" are unclear. See paragraph 8 above.

14. In regards to claim 1, the phrase "an upper sliding guide plate on the lever (13)" is unclear. Page 2 line 28 of the specification states "a short sliding guide plate 13 of a triangular rack 14". There is no support for the lever incorporating the sliding plate structure.

15. Claim 1 recites the limitations "the lower part" and "the housing" on line 11. There is insufficient antecedent basis for these limitations in the claim.

16. In regards to claim 1 line 13, the phrase "the toothed rack is unclear. It is uncertain if this toothed rack is the first or second toothed rack.
17. In regards to claim 1, the phrase "rack is disengaged for the upward motion" is unclear. From the specification and the Figures, the rack is not disengaged for the upward motion. Especially, if the lever and rack do not complete the downward motion.
18. Claim 2 recites the limitation "the same axle" on line 2. There is insufficient antecedent basis for this limitation in the claim.
19. In regards to claim 1 line 13, the phrase "the toothed rack is unclear. It is uncertain if this toothed rack is the first or second toothed rack.
20. In regards to claim 8, the phrase "a sliding guide plate 36" is unclear. In the specification, 36 is a lower edge. In view of the structure of sliding plates 13 and 20, it is unclear how the structure of item 36 can be considered a sliding plate.
21. In regards to claim 10, the phrase "a cam for transporting the severed strip of adhesive tape" is unclear. Using Figure 3, cam (11) is nowhere near the tape (45), therefore, it is unclear how the tape is transported by the cam.
22. In regards to claim 11, the phrase "the transport roll" is unclear. It is uncertain, if the transport roll of claim 11, is referring to the first or second transport roll.

***Claim Rejections - 35 USC § 102***

23. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.



24. Claims 1-4, 7, and 9-11 are rejected, as best understood, under 35 U.S.C. 102(b) as being anticipated by Palson et al. (3,466,963).

In regards to claim 1, Palson et al. discloses the same invention including an apparatus for dispensing strips of tape (Title) with a take-up device (12) taking up a tape roll (11), at least one transporting roll (17) provided with a circumferential groove (14), a folding roll with a circumferential bulge (18), a first toothed rack (21, 74) connected with a lever (2, 71), a cutting means (31, 79) that is activated by a second toothed rack (74) via a first gear wheel (22, 76), the two toothed racks are provided on both sides of the lever (Fig. 11), at least one of the toothed racks is guided in a lower sliding guide plate provided in the lower part of the housing (25) and an upper sliding on the lever (Fig. 2) in such a manner that during the downward motion of the lever the toothed rack indirectly engages the transporting roll and the first gear (Figs. 2 and 10), and the rack is disengaged for the upward motion (Fig. 10).

In regards to claims 2-4, 7, and 9-11, Palson et al. further discloses the transfer roll is connected with a gear wheel on the same axis (Fig. 2), the first gear wheel is rotatably supported against a tensioning spring (23), a second transport roll is provided which can be driven by the first toothed rack (In Fig. 4, cylinder in-between 18 and 19 directly above the right occurrence of item 17), the cutting means comprises a lever arm controlled by the first gear wheel (33) and a triangular shaped knife arranged on the lever arm (31), the lever is provided with a cam for transporting the tape (Fig. 2), and the tape, take-up device, transporting roll, and the folding roll are mounted on a common support member which can be inserted into the housing (Fig. 2).

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25. It is to be noted that claims 5, 6, and 8 have not been rejected over prior art. It may or may not be readable over the prior art but cannot be determined at this time in view of the issues under 35 USC § 112.

***Conclusion***

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Emmert, Krueger, Sharpe, Renne, Klug, Kaplan, Aubrey et al., Klaassen et al., De Regt et al. ('795), De Regt et al. ('652), Tsai, and De Man et al.

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Prone whose telephone number is 571-272-4513. The examiner can normally be reached on 7:30-5:00, Mon - (every other) Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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JP

June 7, 2005

A handwritten signature, possibly reading "ay", in black ink.

Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700